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Legislative Strengthening Program (LSP)

GUIDE TO PARLIAMENTARY FIELD VISITS

September 2011

Contract No. 263-I-03-06-00015-00 (REDI Task Order No. 3)

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Legislative Strengthening Program

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September 2011

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IRAQ LEGISLATIVE STRENGTHENING PROGRAM

GUIDE TO PARLIAMENTARY FIELD VISITS

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Acronyms

COR	Iraqi Council of Representatives
CSO	Civil Society Organization
LSP	Legislative Strengthening Program
MP	Member of Parliament
MAPDC	Members Affairs and Parliamentary Development Committee
PAD	Parliamentary Affairs Directorate
PO	Provincial Office
POD	Provincial Office Department
RGAC	Regions and Governorates Affairs Committee
USAID	U.S. Agency for International Development

Introduction

The Constitution of Iraq establishes a representative and democratic system of government that grants substantial authority to the country's national legislative body, the Council of Representatives (COR). In order to represent the views of Iraqi citizens, evaluate the effectiveness of laws, and ensure that legislation is being implemented in the way it was intended when passed into law, the Legislative branch must serve as a check on the power of the Executive authority through comprehensive oversight of government actions and programs. Oversight is a core function of any legislative body and is it explicitly authorized and stated in the Iraqi Constitution. Article 61(2) of the Iraqi Constitution authorizes the Parliament to "monitoring the performance of the Executive authority." Therefore, the right of the Iraqi Parliament to carry out oversight, including oversight of local development projects that are financed by the federal budget, is indisputable. To perform its constitutional duties, the COR has the "right to know" what the other branches of government are doing, including the actions of the Executive at all levels. The COR's "right to know" is a key function of oversight. There are informal and formal ways of conducting thorough oversight of the Executive and the Constitution provides members of the COR with authority and legal protection to do so through a number of oversight mechanisms.

Some key steps in the process of conducting effective government oversight include:

Setting an Agenda—understanding the needs of the electorate and prioritizing issues;

Issue Research—understanding the facts and using that information to shape opinions;

Consultations—working with outside experts and stakeholders to inform the policy process;

Public Hearings—harnessing the power of public opinion and working to find solutions; and,

Follow-Through—ensuring a satisfactory resolution.

Parliamentary field visits fall under the category of Issue Research in the oversight process. This guide will serve as a quick reference to Members of Parliament (MPs) and COR staff on important elements to be considered while arranging a parliamentary field visit.

You can learn more about parliamentary oversight by accessing the "*COR Oversight Manual*", produced by USAID Legislative Strengthening Project (LSP) with the assistance of the COR.

What is a Parliamentary Field Visit?

A parliamentary field visit is a tool in the oversight process at the disposal of a Member of Parliament or a parliamentary committee. It is utilized to bring attention to an issue, gather information, review the situation on the ground, gather evidence, and possibly expose corruption or ineffective policy. Parliamentary field visits are part of a process, are not implemented at random, and should lead to follow-up parliamentary activities. If parliamentarians are to have an impact on development policies and projects, it is essential that they get a chance to make political assessments and check results on the ground. Monitoring, evaluation and reporting is crucial to parliamentary oversight, to monitor the implementation of legislation and to inform future legislation.

Essential steps in organizing parliamentary field visits include:

Clearly Identifying the Objective—a clear objective should be in accordance to policy priorities and measurable;

Identifying Who Will Conduct the Field Visit—successful field visits are decided by the credibility and political weight of the body conducting it;

Identifying Witnesses and Information Sources—an adequate amount of research will inform the process and lead to a balanced comprehensive report on the visit;

Effectively Utilizing Logistical Resources on the Ground—making use of the COR's Provincial Offices to facilitate the field visit; and,

Writing the Report—a good report will be inclusive, timely and will have wide distribution, depending on the sensitivity of the information gathered and whether or not it undermines national security.

Setting an Objective

In order to set your objectives, you should consider the model below in deciding on your oversight priorities. Monitoring development projects and government programs in the provinces on behalf of the COR is an important and complex mission that seeks to limit ineffective policy, possible mismanagement and ensures that development projects and programs are fully implemented. This section will assist you in understanding the steps involved in setting your monitoring objectives.

The purpose of any government oversight is to ensure the accountability of government monies. One of the better functional definitions of the right of parliamentary oversight comes from the UK Parliament's 2001 Sharman Report, *Holding to Account: The Review of Audit and Accountability for Central Government.* It divides the notion of accountability into four aspects:

1. Giving an Explanation – through which the main stakeholders (for example Parliament) are advised about what is happening, perhaps through an annual report, outlining performance and capacity;

2. Providing Further Information when Required – where those accountable may be asked to account further, perhaps by providing information (example: to a select committee) on performance, beyond accounts already given;

3. Reviewing, and if Necessary Revising – where those accountable respond by examining performance, systems or practices, and if necessary, making changes to meet the expectations of stakeholders; and

4. Granting Redress or Imposing Sanctions – if a mechanism to impose sanctions exists, stakeholders might enforce their rights on those accountable to effect changes.

*(The Sharman report can be accessed at: www.archive.treasury.gov.uk/docs/**2001/sharman**_1302.html)*

For more information on corruption, you can download the "*Sourcebook on Corruption,"* produced by Transparency International: http://www.transparency.org/content/download/2449/14511/file/sourcebook_arabic.zip

Government Policy

Government programs vary in scope depending on the public policy issue they are addressing. Programs can address a range of issues which may include increasing literacy, employment programs, family and health programs, social security, internally displaced persons, etc. The effectiveness of programs may be the subject of a field visit. A well-intended program may meet with limited success due to a variety of reasons, which may include lack of technical expertise, failure of program design or weakness in implementation. For example, the COR may pass a comprehensive legislative package designed to establish a country-wide literacy program. However, the program may not be adequately funded, and therefore have limited results. The program may also lack sufficient resources to target specific populations, such as women. It is important to note that although corruption can be a direct cause for a program's failure, program design and implementation play an important role in a program's potential for success.

It is important to depend on quantitative and qualitative data when determining your priorities for visiting government programs. National and international civil society organizations are important resources that can offer specialized data on specific subjects. Following public opinion data and speaking to stakeholders will also help you identify monitoring priorities for government programs. The government also often releases data on the impact of its programs which can be useful in determining effectiveness.

One of the easiest and often most effective ways to conduct oversight is through building relationships with Ministers and their staff. Finding common ground (e.g. same bloc, coalition, or policy interests/goals) is an important first step in building these relationships. Through the development of these relationships, a Member of the COR can ensure he/she is kept informed of the impact of government programs and decisions being made within a particular ministry. A Member may also be able to obtain data and other pieces of information that may be necessary to check on the status of federal services or helpful in drafting legislative proposals. Strong relationships and regular meetings with officials from the Executive can encourage proactive disclosure of information that will be necessary to conduct effective oversight.

Corruption

In 2010, Transparency International, an anti-corruption international civil society organization, labeled Iraq as the fourth most corrupt country in the world. Statistics from the Iraqi anti-corruption commission estimate a total of 1.135 trillion Iraqi Dinars (about $1 billion U.S. Dollars) were lost from the Iraqi economy to corruption in 2010. A large number of corruption cases are found in government funded development projects. This abuse of government funds hinders the political development process due to lost trust in the Executive and in the COR's ability to expose and halt such illegal practices. Therefore, it is crucial to pay close attention to government development projects.

The matrix below is helpful in determining your oversight priorities, particularly, in visiting development projects. However, the below model can also be applied to government funded programs to identify cases of corruption.

Setting your priorities for oversight should be based upon two factors- <u>accessibility</u> of the project and the likelihood of <u>corruption</u>.

- Accessibility is defined as how much information or physical access to the project that you will be able to gain. This will be based upon several sub-factors including:

    - Level of cooperation you anticipate from the project managers to visit the site and to review sub-contracts and budgets for materials;

    - The difficulty in reaching the physical site based upon distance or security.

- The likelihood of corruption is often based on the degree of corruption associated with similar projects in the past. Examples of projects susceptible to corruption include:

    - Projects that benefit an exclusive group of beneficiaries;

    - Projects that include several sub-contracts or materials whose sourcing may not be easily traced;

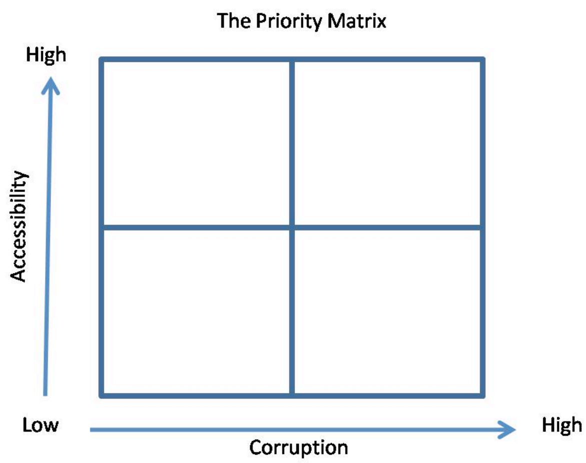
    - Contracts or grants to companies and organizations with little previous experience (who can, in the worst cases, collect government funds and then disappear);

    - Projects with little public visibility or interest that may have little public support (as opposed to those such as a community hospitals or schools which have support within the community);

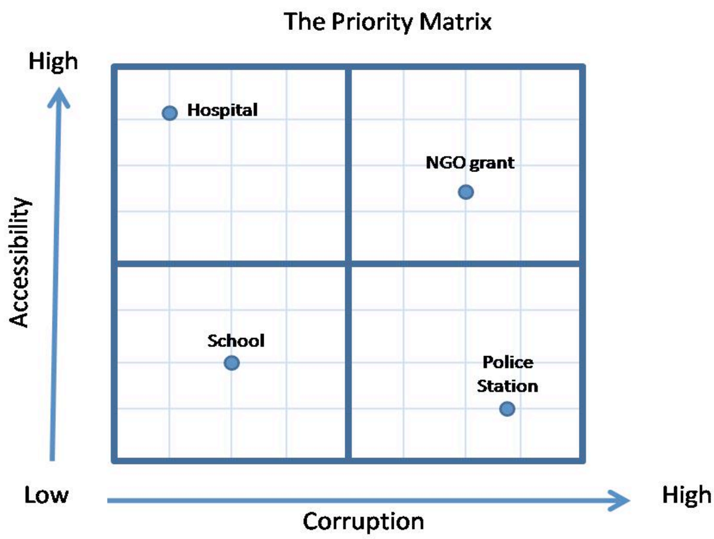
Based upon your familiarity with the community and past projects, you should be able to quickly categorize these projects.

> When preparing your oversight priorities, you should also consider projects or programs from past years that remain in operation. Many large construction projects and government programs may take more than one year to complete. Therefore, you should be aware of current projects and programs that were funded by prior years' budgets and put them into your matrix.

You should start by placing each project on the figure below based upon their accessibility and their anticipated levels of corruption (as defined above).



Plot each project with a dot or letter or number to designate where it will fall based upon a score that you will give for each project. Determining the coordinates is simple and you can visualize the plotting of these lines in percentages or fractions. Always begin plotting the bottom line first and then move to the left handed column to locate where it falls in the matrix.



Let us consider first a local hospital that has received a considerable budget allocation to be built as an example.

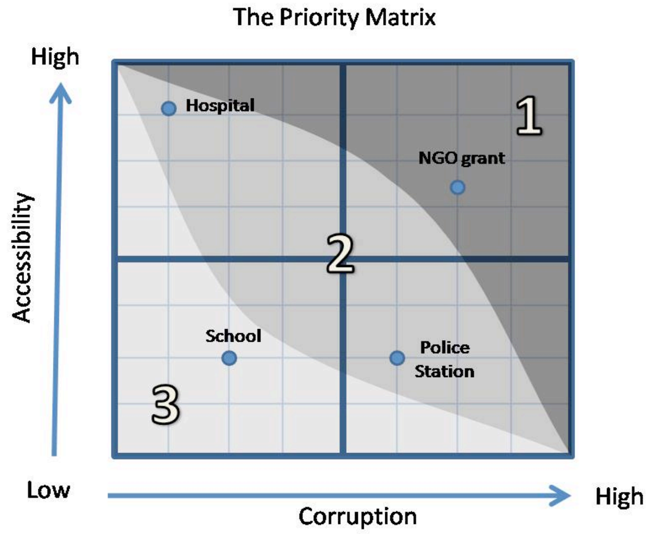
1.) We determine the level of corruption is likely to be low, because of public awareness and high demand for the project. As it is also a priority of the provincial council, there will be added oversight. The risk of corruption is considered limited only to the sub-contracting for materials, which may be fixed to offer kick-backs to the project management if not carefully monitored. You determine the overall likelihood of several people or several layers of people or businesses illegally profiting from it is limited due to the notable project awareness. You estimate that only 10% of the project funds are likely to be pilfered or wasted.

2.) The project is located in the provincial capital, less than a mile from a COR Provincial Office (PO) and there are no major security risks or transport problems to get to the future site to monitor its construction. The provincial council has received a copy of the project's budget and is willing to provide you a copy, giving you sufficient and extensive information, which will allow you to better monitor it. You expect a local contractor to be selected in an open bidding process, but the selection of materials and subcontracts by the prime contractor will be closed, creating some risk of fraud. Therefore you determine that, because this critical information will be limited to a few people, that the accessibility of information is 75%.

3.) To plot this individual project on the matrix you should move it to about 1/10 of the way to the left on the corruption index and then move it up 3/4 of the way on the accessibility scale.

You should attempt to locate the other projects and programs in the province using the same method. First analyze each project or program on a scale based upon the two factors and then use the two scores to plot it on the matrix. Once you have completed the plotting then you will be ready to apply the final step, which is an overlap to assist in determining priorities.

This shaded overlap will assist you in ranking your oversight priorities. As you can see, the first priorities are projects that are most likely to encounter corruption but that can also easily be accessed by the PO's staff. The lowest priorities are those projects that are the most difficult to reach and those that are the least likely to encounter corruption.



In our example, we would rank our priorities as follows:

1. NGO Grant
2. Hospital
3. Police Station
4. School

This matrix is particularly useful when you have more than 10 issues to monitor in a province and you want to justify your ranking methodology.

It should be noted that projects that are likely to be corrupt, but inaccessible are less prioritized than those less likely to be corrupt, but easily accessible. This reflects an attempt to allow you to use your limited time most efficiently. In many cases, oversight activities that lead to successful prosecution of corrupt individuals generates a disproportionate amount of fear, thus bringing parties involved in low-ranked projects to heel.

Corruption is defined by most project auditors as involving fraud, waste, and/or abuse. Below is a table that defines these acts and provides useful examples:

Term	Definition	Examples
FRAUD	Fraud is generally defined in the law as an intentional misrepresentation of existing fact made by one person to another with knowledge of its falsity and for the purpose of inducing the other person to act, and upon which the other person relies with resulting injury or damage. Fraud may also be made by an omission or purposeful failure to state facts, which nondisclosure makes other statements misleading. ** Promises to do something in the future or a mere expression of opinion cannot be the basis of a claim of fraud unless the person stating the opinion has exclusive knowledge of existing facts which are inconsistent with such opinion. The false statement or omission must be material, meaning that it was significant to the decision to be made.*	• Falsifying financial records to conceal the theft of money • Theft or misuse of government money, equipment, supplies and/or other materials. • Intentionally misrepresenting the costs of goods or services provided. • Soliciting or accepting a bribe or portion of the fraud benefits. • Falsifying payroll information. • Participating in fraudulent acts and failing to notify your superiors or anti-corruption authorities
WASTE	The intentional or unintentional, thoughtless or careless expenditure, consumption, mismanagement, use, or squandering of government resources.	• Unnecessary spending of funds to purchase supplies or equipment. • Failure to reuse or recycle major resources or reduce waste generation. • Excessive travel expenses (particularly when failing to carry out official duties)
ABUSE	Intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of government resources. Extravagant or excessive use as to abuse one's position or authority. Abuse can occur both in financial or non-financial settings. Extension of a government unit's power or authority into sphere outside of its delegated jurisdiction.	• Receiving favor for awarding contacts to certain vendors. • Using one's position in government to gain an advantage over another person or business when conducting personal business in another government unit. • Requesting staff to perform personal errands or work tasks or a supervisor or manager. • Making procurement or vendor selections that are contrary to existing policies or are unnecessarily extravagant or expensive. • Unauthorized extension of government power into a sphere to gain control of additional revenue (such as licensing fees or royalties)

It is important to note that many acts of corruption involve more than one of these categories.

Once the objectives of the field visit have been identified, a terms-of-reference document should be drafted. This document should include all information gathered on the targeted project and shared with all those participating in the field visit. The terms of reference must not reflect any predetermined conclusions about the situation under investigation. It should be clear, concise, and include relevant background information on the project to be visited. This document should be available to witnesses and anyone who might be involved in the process of gathering information during the visit.

Deciding on Who Will Conduct the Field Visit

It is highly recommended that the field visit be conducted by a delegation from a parliamentary committee. Due to the security risks in Iraq, individual oversight field visits by MPs is discouraged. There have been many cases where individual MPs have been targeted due to their individual activities in overseeing the government and attempting to uncover issues such as human rights abuses and corruption. Therefore, it is recommended that a delegation representing various political blocs be formed to conduct the field visit. Members of the delegation should comprise individuals who are unbiased and who have the technical competence, experience and expertise relevant to the matters pertaining to the terms of reference. Members of the delegation should at all times act in an objective and ethical manner. A gender and political balance will be essential to the success of the field visit. The delegation should receive balanced background briefing materials, in addition to the terms of reference, prior to the visit. A security and logistical briefing should also be given to the delegation by the parliamentary staff in charge of coordinating logistics on the ground.

Gathering Information

Some of the basic questions to consider during the field visit are listed below.

Question	Example	Answer
What type of project is being undertaken?	Government public policy related program (unemployment program, literacy, etc...) Construction (Hospital, School, Barracks, Road) or Service (Electrical Generation, Trash Disposal, etc…) or Goods (Generator, Trash trucks, etc…), or NGO grant (provide services to widows, etc...)	
What is the total cost?	How much was put in the budget? Are there additional monies being contributed?	
Is it a contract? If so, how is the contract being managed?	Is it an open bid? Will it be limited? Who is reviewing the bids?	
Did the contracting method follow best practices?	Was it publicly advertised? Where clear criteria are laid out? Was the same information available to all potential vendors?	
Were the amounts reasonable?	Were there abnormally high costs for goods or sub-contracts? Were additional and unnecessary goods/services purchased that are unnecessary to complete the activity or project?	
If it is a government services program, does it have enough funding?	Is there enough money in the budget to effectively implement the program and provide citizens with this service?	

Human resources issues?	Is the project or program staffed with qualified personal?	
Security issues?	Does the program or the project have adequate security support from the local/federal government or a private contractor?	

Answers to these questions should be returned by the project/program manager, who will likely be working within the ministry or provincial government office that is managing the project or program. A letter requesting the above information prior to the field visit can be submitted in advance if you wish. If information from the project/program manager or the government entity handling responsible is not forthcoming, then it may be an initial sign of potential problems. This should encourage further questioning.

A field visit should span at least two days to allow time for discussions with individuals within the target entity, local government officials, constituents, intergovernmental organizations, civil society organizations (CSOs), local experts, as well as the people the project/program/s are aiming to benefit. A field visit can be short only if it is aimed at bringing attention to a positive development. For example, a successful government housing project or a governorate that has been able to effectively increase the level of basic services' delivery. The delegation should interview all parties relevant to the situation in order to achieve a balanced, comprehensive picture.

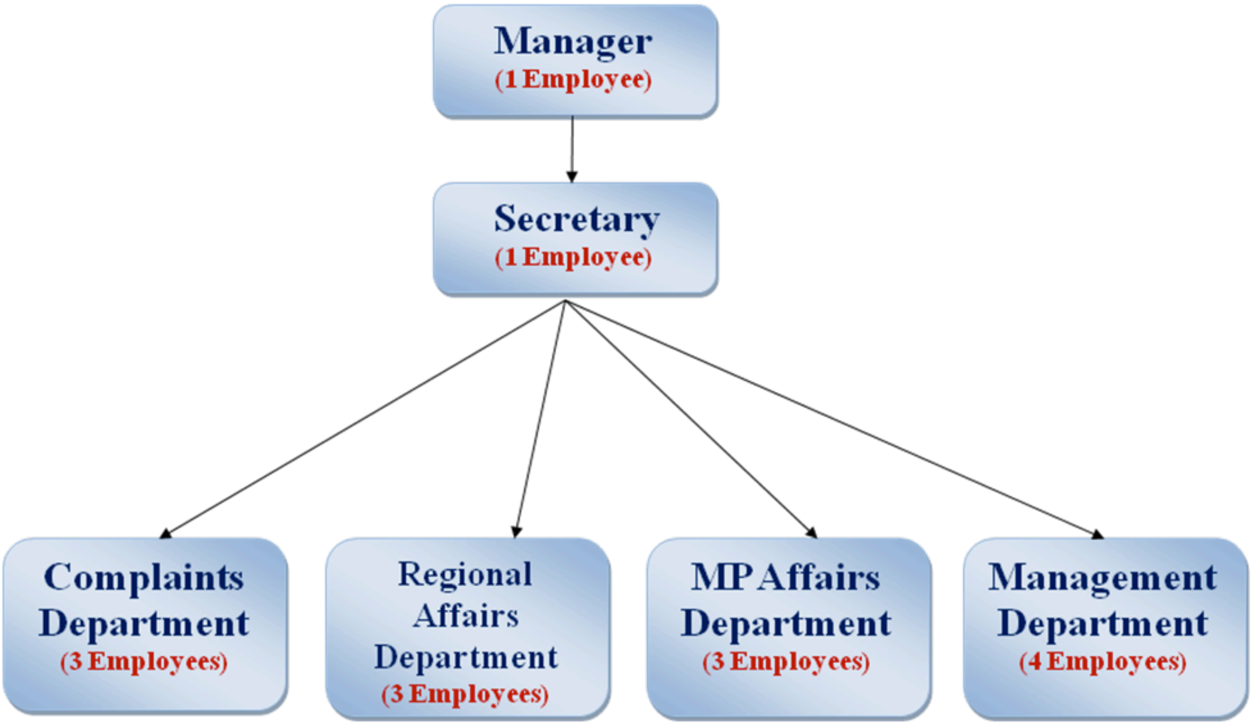
The delegation must take into account the safety and security of those being interviewed It should arrange for a secure place to conduct the interviews and ensure confidentiality. The terms of reference should be shared and appropriate time be allocated for an effective interview. The delegation should take careful note of whether an individual being interviewed provides informed consent and agrees to be identified or quoted. The interviews should always be conducted by more than one member of the delegation at a time. It should be clarified in all cases whether interviewees wish to have a supporting person present, or wish for some person to be absent during the interview process. Finally, interviews should be consistent, thorough and conducted in a professional manner.

Utilizing the COR's Provincial Offices

The COR established its Provincial Offices (POs) under Article 151 of its bylaws. Article 151 states that the Parliament is to open offices to "secure communication between the Members of the Council of Representatives and the people." The Parliamentary Affairs Directorate (PAD) was tasked with developing the POs. Today there are a total of 19 POs across Iraq, with two POs in Baghdad because of the city's large population.
Initially, the POs were conceived as an extension of the COR's former Complaints Committee. Their mandate has since expanded to support the Members Affairs and Parliamentary Development Committee (MAPDC) and the Regions and Governorates Affairs Committee (RGAC). The POs now facilitate constituent services, civic education, and parliamentary oversight.

Each PO has a manager and secretary who are responsible for the office's overall administration. There are four departments within a PO: Administrative, Members Affairs, Regional Affairs, and Complaints. All COR PO staff report on administrative matters to the

Office Director and Deputy Director. On technical matters, they report to the corresponding COR committee. The Members Affairs PO staff report on technical matters to the MAPDC. The Regional Affairs PO staff report on technical matters to the RGAC. The Complaints PO staff currently report to the PAD since the elimination of the Complaints Committee by the COR. This organization structure allows parliamentarians to ensure the POs retain their link to Parliament's policy needs by extending the committees' reach into the provinces.



The Complaints Unit within the PO is responsible for gathering and referring citizens complaints. The MP Affairs Unit is responsible for logistical support to MPs, including support with media related requests.

The Regional Affairs Unit of a Provincial Office is responsible with the following issues:

- Monitoring the development of the regions and the budget process;
- Participation and coordination with the Provincial Council;
- Monitoring the implementation of the development plans for the province;
- Providing MPs with information related to provincial affairs; and
- Reporting any issues related to federally funded projects or programs.

The function of this unit is partly to liaise with provincial councils on behalf of the COR. The staff should be capable of liaising, gathering information, and writing reports.

The Regions and Governorates Affairs Committee's jurisdiction is stated in Article 98 of the Rules of Procedure:

Regions and Governorate (not organized in regions) committee shall be responsible for the following:
1. Focus on the affairs of regions and non-regional provinces, and their relationship with the federal government 2. Follow up on issues related to councils of regions, provinces, and local councils. 3. Monitor the implementation of fair and equal opportunity standards in the management of federal governmental institutions and study tours, scholarships, international, and local conferences. 4. Follow up the fair distribution of resources allocations among regions and provinces.

The Region Affairs Unit in the POs has a more diverse responsibility than the other units because it includes both an oversight and interlocutor role in relationship to the Provincial Councils. These duties require delegation of particular tasks to specialized staff.

Effectively utilization of the COR POs can provide invaluable support to organizing a successful field visit. Parliamentary staff in the provinces can connect MPs with local CSOs, local government officials and members of the media. They can also help arrange all logistical support on the ground prior to the field visit delegation's arrival. The Regional Affairs Unit within the POs monitors all federally funded projects and programs in the province and serves as a great resource to a visiting committee or MP interested in investigating a particular issue.

Writing the Report

The delegation should take full and fair notes or, where necessary, ensure that these are being taken on the delegation's behalf. All materials and information should be collated for the drafter of the report. All notes, transcripts, and documents, including electronic data, together with other material from the visit, should be kept secure at all times. If confidentiality cannot be secured, the interviewee should be informed. The delegation should document any relevant obstacles it has met during its visit and in relation to the collection of information. In making the final findings, the delegation should try to verify alleged facts with an independent third party and when it is not possible, it should be noted. In a final report, the field visit delegation should offer concrete assessment of the reality on the ground and concise recommendations if possible.
The report should include the following:

1) An executive summary;
2) The terms of reference and mandate of the visit;
3) The names of the delegation members and a brief background on their expertise;
4) The dates of the visit;
5) Sufficient background information to enable readers to contextualize the evidence gathered;
6) The methodology used during the visit, especially regarding interviews;
7) As appropriate and where safety and confidentiality would not be compromised, a list of the organizations visited and categories of people interviewed;
8) Identification of any sources of information relied upon, including disclosure of unverified third party evidence;
9) Any applicable laws;
10) Where applicable, complementary secondary sources should be identified as such;

11) Identification of any circumstances relevant to the visit, including anything that impeded it;
12) The findings of the report;
13) An acknowledgment of any contributions by people or organizations who rendered assistance to the delegation, where it would not compromise their safety;
14) Conclusions and recommendations;
15) Details of any significant developments occurring after the visit;
16) The report may be provided in advance to the government ministry relevant in advance of release to the public and any comments received should be included in the report if possible and agreed upon; and
17) Finally, the report should be written and published within a reasonable time frame following the conclusion of the field visit.

Conclusion

Oversight of the Executive by the COR is an essential part of a Representative Democracy's balance of power between the Executive, Judiciary and Legislative branches of government. If utilized effectively, a parliamentary field visit is an integral tool in the oversight process. A parliamentary field visit is used to bring attention to an issue, gather information, review the situation on the ground, gather evidence, and expose mismanagement or corruption. They are a tool of monitoring and evaluating the Executive's implementation of laws, government programs, and development projects. They should be complimented with follow-on oversight activities, a comprehensive report, and concise recommendations to the COR and government ministries.

This guide has briefly outlined a set of principles that guide MPs and parliamentary staff on how to identify a field visit's objectives, delegation, gather information, utilize the COR's POs, and issue a final report that has an impact. These principles form the foundation of an effective parliamentary field visit if followed correctly.